

SUPREME COURT OF THE STATE OF NEW YORK  
KINGS COUNTY

X

DIANNA GRIZZLE,  
Plaintiffs,  
-against-

THE CITY OF NEW YORK, NEW YORK CITY  
POLICE OFFICER JOHN DOE #1, and POLICE  
OFFICERS JOHN DOES #2-4 (names and numbers of  
who is unknown at present), and other unidentified  
members of the New York City Police Department,

Defendants.

X

**SUMMONS**

Index #

The basis of venue is:  
Place of Incident

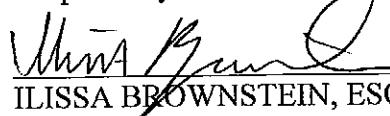
Plaintiff designates Brooklyn  
County as the place of trial.

**To the above named Defendants:**

You are hereby summoned to answer the complaint in this action, and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the Plaintiff's attorneys within twenty days after the service of this summons, exclusive of the day of service, where service is made by delivery upon you personally within the state, or, within 30 days after completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

DATED: New York, New York  
May 23, 2014

Respectfully submitted,

  
ILISSA BROWNSTEIN, ESQ.  
Attorney for Plaintiff  
22 Cortlandt Street, 16<sup>th</sup> Floor  
New York, New York 10007  
(212) 691-3333

CITY OF NEW YORK  
CORPORATION COUNSEL  
100 Church Street  
New York, New York 10007

SUPREME COURT OF THE STATE OF NEW YORK  
KINGS COUNTY

**VERIFIED COMPLAINT**

DIANNA GRIZZLE,

Plaintiffs,

-against-

THE CITY OF NEW YORK, NEW YORK CITY  
POLICE OFFICER JOHN DOE #1, and POLICE  
OFFICERS JOHN DOES #2-4 (names and numbers of  
who is unknown at present), and other unidentified  
members of the New York City Police Department,

Defendants.

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Plaintiff **Dianna Grizzle**, by her attorney, ILISSA BROWNSTEIN, ESQ., as and for the Complaint herein, alleges upon information and belief as follows:

**PRELIMINARY STATEMENT**

1. This is a civil rights action to recover money damages arising out of defendants' violation of plaintiffs' rights as secured by the Civil Rights Act, 42 U.S.C. Section 1983, the rights secured by the First, Fourth, and Fourteenth Amendments to the United States Constitution and the laws of the State of New York. Plaintiff was unlawfully arrested by the defendants. Plaintiff was deprived of her federal constitutional and state constitutional and common law rights when the individually named police officer defendants unlawfully confined plaintiff, caused the unjustifiable arrest of plaintiff and malicious prosecution of plaintiff. Defendants additionally used excessive force in violation of Plaintiff's constitutional rights protected by the Eighth Amendment and the state tort laws.

**PARTIES**

2. Plaintiff Dianna Grizzle is a citizen of the United States and a resident of Brooklyn, New York.
3. Police Officer John Doe #1 is and was at all times relevant herein an officer, employee, and agent of the New York City Police Department.
4. Police Officer John Doe #1 is being sued in his individual capacity and official capacity.
5. New York City Police Officers John Does #2-4 are and were at all times relevant herein officers, employees, and agents of the New York City Police Department.

6. New York City Police Officers John Does #2-4 are being sued in their individual capacities and official capacities.
7. At all times relevant herein, the individual defendants were acting under color of state law in the course and scope of their duties and functions as agents, servants, employees and officers of the New York City Police Department, and otherwise performed and engaged in conduct incidental to the performance of their lawful functions in the course of their duties. They were acting for and on behalf of the New York City Police Department at all times relevant herein, with the power and authority vested in them as officers, agents and employees of the New York City Police Department and incidental to the lawful pursuit of their duties as officers, employees and agents of the New York City Police Department.
8. Defendant City of New York is a municipal entity created and authorized under the laws of the State of New York. It is authorized by law to maintain a police department which acts as its agent in the area of law enforcement and for which it is ultimately responsible. The defendant City of New York assumes the risks incidental to the maintenance of a police force and the employment of police officers as said risks attach to the public consumers of the services provided by the New York City Police Department.
9. Plaintiff in furtherance of his State causes of action filed a timely (with regard to some claims) Notice of Claim upon the City of New York in compliance with Municipal Law Section 50.
10. More than thirty (30) days have elapsed since service of said Notice of Claim was filed and the City of New York has failed to pay or adjust the claim.
11. The City of New York held a 50(H) hearing examination of the Plaintiff on August 8, 2013.

#### **STATEMENT OF FACTS**

18. Dianna Grizzle is 42 years old.
19. She is employed by NYC HRA/Social Services as an Eligibility Specialist dealing with Medicaid eligibility since October 15, 2001.
20. She has a Bachelor's Degree in science and human services from Boricua College.
21. This is her first arrest.
22. On August 14, 2012 at 6:30 pm on Franklin Avenue & Herkimer Place in Brooklyn, NY Claimant had been shopping for food and was holding grocery bags with food.
23. She was heading home and bumped into Mr. Johnson, a person that she knew from the community church.

24. Police officers approached in an unmarked car, grabbed both Ms. Grizzle and Mr. Johnson.
25. Ms. Grizzle was searched and nothing unlawful was found on her person.
26. A police officer reached into her bra and grabbed her phone. While doing so he touched her breast.
27. The police said she fit the description of someone that burglarized someone's home.
28. The officers placed the handcuffs on too tight and refused to loosen them upon request. They laughed at the request.
29. Plaintiff was held in jail for over 25 hours before being released ROR.
30. Plaintiff reported this incident to the Internal Affairs Bureau. She interviewed with IAB on two occasions at her residence.
31. After three court dates, on February 22, 2013 the case was dismissed on motion of the People.
32. Plaintiff's position at HRA/Social Services was in jeopardy, as there was an investigation into her arrest by her job. She missed one day of work on account of her arrest and had to take a personal day. Ms. Grizzle had trouble performing her job at work while the case was pending.
33. Plaintiff missed appointments at her sons' school as the result of her arrest and she was not given the opportunity to cancel. The officers did not even allow her to call her children until she begged and begged.
34. She went to the precinct three times to obtain her property. \$400 and all of her and her children's passports and social security cards were seized. She was given the run around and was treated poorly in the process.
35. Plaintiff filed a notice of claim on March 24, 2013.

#### **FIRST CAUSE OF ACTION**

#### **VIOLATION OF PLAINTIFF'S FOURTH AMENDMENT AND FOURTEENTH AMENDMENT RIGHTS**

36. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 35 with the same force and effect as if more fully set forth at length herein.

37. The individually named defendants who were acting in concert and within the scope of their authority at the NYPD arrested and caused plaintiff to be imprisoned without probable cause, maliciously prosecuted, and subjected to excessive force based as well as an unlawful and sexually abusive search in violation of plaintiff's right to be free of an unreasonable seizure under the Fourth Amendment of the Constitution of the United States and to be free of a deprivation of liberty and the right to privacy under the Fourteenth Amendment to the Constitution of the United States.

### **SECOND CAUSE OF ACTION**

#### **FALSE ARREST & FALSE IMPRISONMENT**

38. Plaintiff repeats and realleges paragraphs 1 through 37 as if fully set forth herein.
39. The acts and conduct of the defendants constitute false arrest and false imprisonment under the laws of the State of New York. Defendants intended to confine plaintiff and, in fact, confined plaintiff, and plaintiff was conscious of the confinement. In addition, plaintiff did not consent to the confinement and the confinement was not otherwise privileged.
40. The individually named defendants were at all times agents, servants, and employees acting within the scope of their employment by the City of New York and the New York City Police Department, which are therefore responsible for their conduct.
41. The City, as the employer of the officer defendants, is responsible for their wrong doing under the doctrine of respondeat superior.

### **THIRD CAUSE OF ACTION**

#### **Malicious Prosecution**

42. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 41 with the same force and effect as if more fully set forth at length herein.
43. The acts and conduct of the defendants constitute malicious prosecution under the Fourth Amendment to the United States Constitution.
44. Defendants commenced and continued a criminal proceeding against plaintiff.
45. There was actual malice and an absence of probable cause for the criminal proceeding against plaintiff and for each of the charges for which he was prosecuted.
46. The prosecution and criminal proceedings terminated favorably to plaintiff on February 22, 2013.

47. Plaintiff was subjected to a post-arraignment deprivation of liberty sufficient to implicate plaintiff's Fourth Amendment rights.
48. The individually named defendant Police Officers were at all times agents, servants, and employees acting within the scope of their employment by the City of New York and the New York City Police Department, which are therefore responsible for their conduct.

#### **FOURTH CAUSE OF ACTION**

##### **ASSAULT**

49. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 48 with the same force and effect as if more fully set forth at length herein.
50. Defendants their agents, servants and employees, acting within the scope of their employment, intentionally, willfully and maliciously assaulted plaintiff in that he had the real or apparent ability to cause imminent harmful and/or offensive bodily contact and intentionally did a violent and/or menacing act which threatened such contact to the plaintiff, and that such acts caused apprehension of such contact in the plaintiff.
51. Defendants were at all times agents, servants, and employees acting within the scope of his employment by the City of New York, the New York City Police Department, which are therefore responsible for their conduct.
52. The City, as the employer of defendants is responsible for their wrongdoing under the doctrine of respondeat superior.

#### **FIFTH CAUSE OF ACTION**

##### **BATTERY**

53. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 52 with the same force and effect as if more fully set forth at length herein.
54. Defendants their agents, servants and employees, acting within the scope of his employment, intentionally, willfully and maliciously battered plaintiff, when they, in a hostile and/or offensive manner struck plaintiff without his consent and with the intention of causing harmful and/or offensive bodily contact to the plaintiff and caused such battery.
55. Defendants were at all times agents, servants, and employees acting within the scope of his employment by the City of New York and the New York City Police Department, which are therefore responsible for their conduct.

56. The City, as the employer of Defendants is responsible for his wrongdoing under the doctrine of respondeat superior.

### **SIXTH CAUSE OF ACTION**

#### **INVASION OF PRIVACY**

57. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 56 with the same force and effect as if more fully set forth at length herein.
58. Defendants their agents, servants and employees, acting within the scope of his employment, intentionally, willfully and maliciously subjected plaintiff to an illegal and sexually abusive search, and in doing so violated plaintiff's right to privacy.
59. Defendants were at all times agents, servants, and employees acting within the scope of his employment by the City of New York and the NYPD which are therefore responsible for their conduct.
60. The City, as the employer of Defendant is responsible for the wrongdoing under the doctrine of respondeat superior.

### **SEVENTH CAUSE OF ACTION**

#### **SEXUAL ABUSE**

61. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 60 with the same force and effect as if more fully set forth at length herein.
62. Defendants their agents, servants and employees, acting within the scope of their employment, intentionally, willfully and maliciously touched plaintiff's breasts and in doing so violated plaintiff's right to privacy.
63. Defendants were at all times agents, servants, and employees acting within the scope of his employment by the City of New York and the NYPD which are therefore responsible for their conduct.
64. The City, as the employer of Defendant is responsible for the wrongdoing under the doctrine of respondeat superior.

## **EIGHTH CAUSE OF ACTION**

### **NEGLIGENT HIRING, RETENTION, TRAINING AND SUPERVISION**

65. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 64 with the same force and effect as if more fully set forth at length herein.
66. The City of New York and its employees, servants and/or agents acting within the scope of their employment did negligently hire, retain, train and supervise the individually named defendants, individuals who were unfit for the performance of NYPD duties.

## **NINTH CAUSE OF ACTION**

### **FAILURE TO INTERVENE**

67. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 66 with the same force and effect as if more fully set forth at length herein.
68. Defendants had an affirmative duty to intervene on behalf of plaintiff, whose constitutional rights were being violated in their presence by other members of the NYPD.
69. Defendants failed to intervene to prevent the unlawful conduct described herein.
70. As a result of the foregoing, plaintiff was physically assaulted and subjected to an illegal and sexually abusive search.
71. Defendants were at all times agents, servants, and employees acting within the scope of their employment by the City of New York and NYPD, which are therefore responsible for their conduct.
72. The City, as the employer of the officer defendants, is responsible for their wrongdoing under the doctrine of respondeat superior.

## **TENTH CAUSE OF ACTION**

### **NEGLIGENCE**

73. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 72 with the same force and effect as if more fully set forth at length herein.
74. Defendants owed a duty of care to plaintiff.

75. Defendants breached that duty of care by assaulting plaintiff and subjecting her to an illegal and sexually abusive search.
76. As a direct and proximate cause of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.
77. All of the foregoing occurred without any fault by plaintiff.
78. The City, as the employer of the officer defendants, is responsible for their wrongdoing under the doctrine of respondeat superior.

#### **ELEVENTH CAUSE OF ACTION**

##### **NEGLIGENT INFILCTION OF EMOTIONAL DISTRESS**

78. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 78 with the same force and effect as if more fully set forth at length herein.
79. By the actions described herein, the individually named police officer defendants, each acting individually and in concert with each other, engaged in extreme and outrageous conduct, conduct utterly intolerable in a civilized community, which negligently caused severe emotional distress to plaintiff. The acts and conduct of the defendants were the direct and proximate cause of injury and damage to plaintiff and violated plaintiff's statutory and common law rights as guaranteed plaintiff by the laws and Constitution of the State of New York.
80. As a result of the foregoing, plaintiff was deprived of liberty and sustained great emotional injuries.
81. The City, as the employer of the defendants, is responsible for their wrongdoing under the doctrine of respondeat superior.

#### **TWELFTH CAUSE OF ACTION**

##### **Municipal Liability under 42 U.S.C. § 1983**

82. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 81 with the same force and effect as if more fully set forth at length herein.

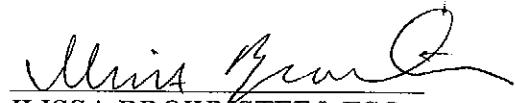
83. Defendants, collectively and individually, while acting under color of state law, engaged in conduct that constituted a custom, usage, practice, procedure or rule of defendant City of New York, which is forbidden by the Constitution of the United States.
84. The aforementioned customs, policies, usages, practices, procedures and rules of defendant City of New York and the New York City Police Department included, but were not limited to policies, customs and practices wherein New York City Police Officers arrest individuals without probable cause and create false versions of events to justify their actions.
85. The aforementioned customs, policies, usages, practices, procedures and rules of defendant City of New York and the New York City Police Department were the moving force behind the violation of plaintiffs' constitutional rights as described herein. As a result of the failure of defendant City of New York and the New York City Police Department to properly recruit, screen, train, discipline, and supervise its officers, including the individual defendants, defendant City of New York has tacitly authorized, ratified, and has been deliberately indifferent to, the acts and conduct complained of herein.
86. The foregoing customs, policies, usages, practices, procedures and rules of defendant City of New York and the New York City Police Department were the moving force behind the Constitutional violations suffered by plaintiffs as alleged herein.
87. The foregoing customs, policies, usages, practices, procedures and rules of defendant City of New York and the New York City Police Department were the direct and proximate cause of the constitutional violations suffered by plaintiffs as alleged herein.
88. As a result of the foregoing customs, policies, usages, practices, procedures and rules of the City of New York and the New York City Police Department, plaintiffs were unlawfully arrested and prosecuted.
89. Defendants collectively and individually, while acting under color of state law were directly and actively involved in violating plaintiffs' constitutional rights.

**WHEREFORE, DIANNA GRIZZLE**, plaintiff, demands a judgment against the defendants on each cause of action in amounts to be determined upon the trial of this action which exceeds the jurisdiction of lower courts, inclusive of punitive damages and attorney's fees inclusive of costs and disbursements of this action, interest and such other relief as is appropriate under the law.

Dated: New York, New York  
May 23, 2014

Respectfully Submitted:

By:

  
ILISSA BROWNSTEIN, ESQ.

Attorney for Plaintiff  
22 Cortlandt Street (16th Floor)  
New York, New York 10007  
(212) 691-3333

TO: CITY OF NEW YORK  
CORPORATION COUNSEL  
100 Church Street  
New York, NY 10007

**ATTORNEY'S VERIFICATION**

**ILISSA BROWNSTEIN**, an attorney duly admitted to practice before the Courts of the State of New York, affirms the following to be true under the penalties of perjury:

I am an attorney at the law firm of **ILISSA BROWNSTEIN, ESQ.**, I have read the annexed **VERIFIED COMPLAINT** and know the contents thereof, and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon facts, records, and other pertinent information contained in my files. The reason this verification is made by me and not Plaintiff is that Plaintiff does not reside in the county wherein I maintain my office.

DATED: New York, New York  
May 23, 2014



Ilissa Brownstein  
ILISSA BROWNSTEIN, ESQ.